



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

DEC 11 2008

OFFICE OF  
AIR AND RADIATION

**MEMORANDUM**

SUBJECT: Inadvertent Errors in the Final Rule: Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR):  
Reconsideration of Inclusion of Fugitive Emissions

FROM: Brian Mannix  
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TO: The Administrator (1101A)

An inadvertent error was made in the process of preparing the signature package for the final rule - Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions – which was signed on December 10, 2008. The error involves the effective date of the rule in the “dates” section. This section currently provides that the final rule is effective 60 days after publication in the Federal Register. However, this action is not a “major” rule under the Congressional Review Act (“CRA”), 5 U.S.C. § 804(2), and therefore, the 60 day effective date delay does not apply. Indeed, the CRA section correctly reflected that the 30-day effective date was applicable. The inclusion of the 60-day effective date in the “dates” section of this rule was a typographical error and did not reflect intent to deviate from the Administrative Procedures Act’s general 30-day delay in the effective date. See, 5 U.S.C. § 553(d). Accordingly, we recommend making this change.

The attached red-line/strike-out version of the preamble identifies this error and shows the corrected text. The preamble change appears on page one (1).

We recommend that you correct this inadvertent error and approve this change by signing and dating below.

# SIGNATURE AUTHORIZATION FORM

OFFICE OF THE ADMINISTRATOR

AX-08-001-5640

CONTROL NUMBER: Fugitive Emissions Correction Memo

OK TO MACHINE SIGN

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BODY (if other than "Please see the attached memorandum regarding [MEMO TITLE]."):

SPECIAL INSTRUCTIONS (e.g. timing): \_\_\_\_\_